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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R.

To require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCCAUL (for himself and Mrs. MILLER of Michigan) introduced the following bill; which was referred to the Committee on

A BILL

To require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Border Security Re-
5 sults Act of 2013”.

1 **SEC. 2. REPORTS ON CURRENT BORDER SECURITY STATUS.**

2 Not later than 60 days after the date of the enact-
3 ment of this Act and every 180 days thereafter, the Sec-
4 retary of Homeland Security shall submit to the appro-
5 priate congressional committees a report that assesses and
6 describes, as of such date, the state of operational control
7 of the international borders of the United States.

8 **SEC. 3. STRATEGY TO ACHIEVE OPERATIONAL CONTROL**
9 **OF THE BORDER.**

10 (a) STRATEGY TO SECURE THE BORDER.—Not later
11 than 120 days after the date of the enactment of this Act,
12 the Secretary of Homeland Security shall submit to the
13 appropriate congressional committees a comprehensive
14 strategy for gaining and maintaining operational control
15 of high traffic areas of the international borders of the
16 United States by the date that is not later than two years
17 after the date of the submission of the implementation
18 plan required under subsection (b). The strategy shall in-
19 clude, at a minimum, a consideration of the following:

20 (1) An assessment of principal border security
21 threats.

22 (2) Efforts to analyze and disseminate border
23 security and border threat information between De-
24 partment of Homeland Security border security com-
25 ponents.

26 (3) Efforts to increase situational awareness.

1 (4) A comprehensive border security technology
2 plan for detection technology capabilities, including a
3 documented justification and rationale for tech-
4 nology choices, deployment locations, fixed versus
5 mobile assets, and a timetable for procurement and
6 deployment.

7 (5) Surveillance capabilities developed or uti-
8 lized by the Department of Defense, including any
9 technology determined to be excess by the Depart-
10 ment of Defense.

11 (6) Use of manned aircraft and unmanned aer-
12 ial systems, including the camera and sensor tech-
13 nology deployed on such assets.

14 (7) Technology required to enhance security at
15 ports of entry, including the installation of nonintru-
16 sive detection equipment, radiation portal monitors,
17 biometric technology, and other sensors and tech-
18 nology that the Secretary determines necessary.

19 (8) Operational coordination of Department of
20 Homeland Security border security components.

21 (9) Cooperative agreements with State, local,
22 tribal, and other Federal law enforcement agencies
23 that have jurisdiction on the northern border, south-
24 ern border, and in the maritime environment.

1 (10) Agreements with foreign governments that
2 support the border security efforts of the United
3 States.

4 (11) Staffing requirements for all border secu-
5 rity functions.

6 (12) Metrics required under subsections (e), (f),
7 and (g).

8 (b) IMPLEMENTATION PLAN.—

9 (1) IN GENERAL.—Not later than 60 days after
10 the submission of the strategy under subsection (a),
11 the Secretary of Homeland Security shall submit to
12 the appropriate congressional committees an imple-
13 mentation plan for each of the Department of
14 Homeland Security border security components to
15 carry out such strategy.

16 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
17 VIEW.—

18 (A) IN GENERAL.—The Secretary of
19 Homeland Security shall make available to the
20 Government Accountability Office the imple-
21 mentation plan required under paragraph (1).

22 (B) REPORT.—Not later than 90 days
23 after receiving the implementation plan in ac-
24 cordance with subparagraph (A), the Comp-
25 troller General of the United States shall sub-

1 mit to the appropriate congressional committees
2 a report on such plan.

3 (c) SITUATIONAL AWARENESS.—Not later than two
4 years after the date of the enactment of this Act, the Sec-
5 retary of Homeland Security shall achieve situational
6 awareness of the international borders of the United
7 States.

8 (d) PERIODIC UPDATES.—Not later than 180 days
9 after the submission of each Quadrennial Homeland Secu-
10 rity Review required under section 707 of the Homeland
11 Security Act of 2002 (6 U.S.C. 347) beginning with the
12 first such Review that is due after the implementation
13 plan is submitted under subsection (b), the Secretary of
14 Homeland Security shall submit to the appropriate con-
15 gressional committees an updated—

- 16 (1) strategy under subsection (a); and
17 (2) implementation plan under subsection (b).

18 (e) METRICS FOR SECURING THE BORDER BETWEEN
19 PORTS OF ENTRY.—Not later than 90 days after the date
20 of the enactment of this Act, the Secretary of Homeland
21 Security shall implement metrics to measure the effective-
22 ness of security between ports of entry, which shall in-
23 clude, at a minimum, the following:

- 24 (1) An effectiveness rate which measures the
25 number of illegal border crossers who are turned

1 back, and the amount of narcotics seized, against
2 the total estimated number of illegal border crossers
3 and amount of narcotics the Department of Home-
4 land Security's border security components fail to
5 apprehend or seize, as the case may be.

6 (2) Estimates, using alternate methodologies,
7 including recidivism and survey data, of total at-
8 tempted illegal border crossings, the rate of appre-
9 hension of attempted illegal border crossings, and
10 the inflow into the United States of illegal border
11 crossers who evade apprehension.

12 (3) Estimates of the impacts of the Border Pa-
13 trol's Consequence Delivery System on the rate of
14 recidivism of illegal border crossers.

15 (4) An understanding of the current level of sit-
16 uational awareness.

17 (5) Amount of narcotics seized between ports of
18 entry.

19 (f) METRICS FOR SECURING THE BORDER AT PORTS
20 OF ENTRY.—Not later than 90 days after the date of the
21 enactment of this Act, the Secretary of Homeland Security
22 shall implement metrics to measure the effectiveness of se-
23 curity at ports of entry, which shall include, at a min-
24 imum, the following:

1 (1) An effectiveness rate which measures the
2 number of illegal border crossers who are turned
3 back, and the amount of narcotics seized, against
4 the total estimated number of illegal border crossers
5 and amount of narcotics the Department of Home-
6 land Security's border security components fail to
7 apprehend or seize, as the case may be.

8 (2) The number of infractions related to per-
9 sonnel and cargo committed by major violators who
10 are apprehended by U.S. Customs and Border Pro-
11 tection at such ports of entry.

12 (3) The estimated number of such infractions
13 committed by major violators who are not so appre-
14 hended.

15 (4) Estimates, using alternate methodologies,
16 including recidivism and survey data, of total at-
17 tempted illegal border crossings, the rate of appre-
18 hension of attempted illegal border crossings, and
19 the inflow into the United States of illegal border
20 crossers who evade apprehension.

21 (g) METRICS FOR SECURING THE MARITIME BOR-
22 DER.—Not later than 90 days after the date of the enact-
23 ment of this Act, the Secretary of Homeland Security shall
24 implement metrics to measure the effectiveness of security

1 in the maritime environment, which shall include, at a
2 minimum, the following:

3 (1) An effectiveness rate which measures the
4 number of migrants apprehended, the number of mi-
5 grants turned back, and the amount of narcotics
6 seized, against the total estimated numbers of mi-
7 grants and amount of narcotics the Department of
8 Homeland Security's maritime security components
9 fail to apprehend or seize, as the case may be.

10 (2) An understanding of the current level of sit-
11 uational awareness.

12 (3) A response rate which measures the Depart-
13 ment's ability to respond to known maritime threats
14 by placing assets on-scene, compared to the total
15 number of events with respect to which the Depart-
16 ment has known threat information.

17 (4) Partnerships with international, State, local,
18 tribal, and other Federal law enforcement agencies.

19 (h) INDEPENDENT ASSESSMENT BY A NATIONAL
20 LABORATORY WITHIN THE DEPARTMENT OF HOMELAND
21 SECURITY LABORATORY NETWORK.—The Secretary of
22 Homeland Security shall request the head of a national
23 laboratory within the Department of Homeland Security
24 laboratory network with prior expertise in border security
25 to—

1 (1) provide an independent assessment of the
2 metrics implemented in accordance with subsections
3 (e), (f), and (g) to ensure each such metric's suit-
4 ability and statistical validity; and

5 (2) make recommendations for other suitable
6 metrics that may be used to measure the effective-
7 ness of border security.

8 (i) EVALUATION BY THE GOVERNMENT ACCOUNT-
9 ABILITY OFFICE.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall make available to the Government Ac-
12 countability Office the data and methodology used to
13 develop the metrics implemented under subsections
14 (e), (f), and (g) and the independent assessment de-
15 scribed under subsection (h).

16 (2) REPORT.—Not later than 270 days after re-
17 ceiving the data and methodology described in para-
18 graph (1), the Comptroller General of the United
19 States shall submit to the appropriate congressional
20 committees a report on the suitability and statistical
21 validity of such data and methodology.

22 (j) CERTIFICATIONS RELATING TO OPERATIONAL
23 CONTROL.—

24 (1) BY THE SECRETARY OF HOMELAND SECU-
25 RITY.—If the Secretary of Homeland Security deter-

1 mines that operational control of the international
2 borders of the United States has been achieved, the
3 Secretary shall submit to the appropriate congress-
4 sional committees and the Comptroller General of
5 the United States a certification that so attests.

6 (2) BY THE COMPTROLLER GENERAL.—

7 (A) REVIEW.—The Comptroller General of
8 the United States shall review the certification
9 of the Secretary of Homeland Security under
10 paragraph (1) to verify if such certification is
11 accurate.

12 (B) VERIFICATION AND SUBMISSION.—If
13 the Comptroller General of the United States
14 verifies the accuracy of the certification of the
15 Secretary of Homeland Security under para-
16 graph (1), the Comptroller General shall, not
17 later than 120 days after such verification, sub-
18 mit to the appropriate congressional committees
19 a certification that so attests.

20 (k) GOVERNMENT ACCOUNTABILITY OFFICE REPORT
21 ON BORDER SECURITY DUPLICATION.—Not later than
22 one year after the date of the enactment of this Act, the
23 Comptroller General of the United States shall submit to
24 the appropriate congressional committees a report ad-
25 dressing areas of overlap in responsibilities within the bor-

1 der security functions of the Department of Homeland Se-
2 curity.

3 (l) REPORTS.—Not later than 60 days after the date
4 of the enactment of this Act and annually thereafter, the
5 Secretary of Homeland Security shall submit to the appro-
6 priate congressional committee a report on the following:

7 (1) A resource allocation model for current and
8 future year staffing requirements that includes opti-
9 mal staffing levels at all land, air, and sea ports of
10 entry, and an explanation of U.S. Customs and Bor-
11 der Protection methodology for aligning staffing lev-
12 els and workload to threats and vulnerabilities
13 across all mission areas.

14 (2) Detailed information on the level of man-
15 power available at all land, air, and sea ports of
16 entry and between ports of entry, including the num-
17 ber of canine and agricultural officers assigned to
18 each such port of entry.

19 (3) Detailed information that describes the dif-
20 ference between the staffing the model suggests and
21 the actual staffing at each port of entry and between
22 the ports of entry.

23 (m) DEFINITIONS.—In this Act:

24 (1) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term “appropriate congressional com-

1 mittees” means the Committee on Homeland Secu-
2 rity of the House of Representatives and the Com-
3 mittee on Homeland Security and Governmental Af-
4 fairs of the Senate.

5 (2) HIGH TRAFFIC AREAS.—The term “high
6 traffic areas” means locations identified through sit-
7 uational awareness that are within close proximity of
8 the northern and southern borders of the United
9 States that have the most illicit cross-border activity.

10 (3) MAJOR VIOLATOR.—The term “major viola-
11 tor” means a person or entity that has engaged in
12 serious criminal activities at any land, air, or sea
13 port of entry, including possession of narcotics,
14 smuggling of prohibited products, human smuggling,
15 weapons possession, use of fraudulent United States
16 documents, or other offenses serious enough to re-
17 sult in arrest.

18 (4) OPERATIONAL CONTROL.—The term “oper-
19 ational control” means a condition in which there is
20 a 90 percent probability that illegal border crossers
21 are apprehended and narcotics and other contraband
22 are seized in high traffic areas.

23 (5) SITUATIONAL AWARENESS.—The term “sit-
24 uational awareness” means knowledge and an under-
25 standing of current illicit cross-border activity, in-

1 cluding cross-border threats and trends concerning
2 illicit trafficking and unlawful crossings along the
3 international borders of the United States and in the
4 maritime environment, and the ability to predict fu-
5 ture shifts in such threats and trends.